



Indiana Department of Environmental Management
Office of Air Quality
Rule Fact Sheet
August 1, 2001

Fugitive Dust Emissions
#01-184(LSA)

Overview

This rulemaking concerns fugitive dust emissions.

Citations Affected

Readopts: 326 IAC 6-4.

Affected Persons

Sources throughout the State of Indiana generating fugitive dust and the public in the vicinity of these sources.

Potential Cost

Cost to a source is expected to be minimal, since the current rule is being readopted without changes.

Outreach

Interested parties received notification by mail of the draft rule publication and date of the public meeting. IDEM held a public meeting in Indianapolis on February 20, 2001, and a second public meeting in Indianapolis on June 28, 2001.

Upon request, the department has met with interested parties to discuss the draft rule.

Description

In 1996, the Indiana General Assembly directed IDEM to review and, if appropriate, revise certain provisions of the fugitive dust rule. Specifically HEA 1401, P.L. 123-1996 called on IDEM to evaluate the appropriateness of the sixty (60) minute time

period found in 326 IAC 6-4-2(3), which addresses determining compliance by measuring and comparing the dust upwind and downwind from the source. It is a violation of the existing rule if the average downwind ground level concentration of dust exceeds the upwind concentration by more than fifty (50) micrograms per cubic meter for a sixty (60) minute period. HEA 1401 also required IDEM to report the department's findings on the sixty (60) minute time period to the air pollution control board (board) and to initiate rulemaking to revise or reaffirm 326 IAC 6-4-2(3). IDEM evaluated the time period and recommended that it be retained, in combination with certain other proposed changes to the rule, at the November 1996 board meeting.

A second notice of comment period that contained a draft rule incorporating the proposed changes was published on March 1, 1997. In response to the comments received from both industry and environmental groups, IDEM postponed the first hearing and made a number of changes to the draft rule.

The fugitive dust rule, 326 IAC 6-4, has since become subject to the "sunset" statute, IC 13-14-9.5, Expiration and Readoption of Administrative Rules. Affected administrative rules receiving comments are required to be opened up for rulemaking and

readopted to be effective by January 1, 2002. IDEM has proceeded with the readoption of this rule and will fulfill the requirements of the "sunset" statute.

In response to comments received from the second notice of comment period published on February 1, 2001, IDEM made a number of changes to the draft rule. The draft rule was presented for preliminary readoption on April 12, 2001. The existing rule, however, was instead preliminarily readopted.

A notice of third comment period and proposed rule were published on June 1, 2001. After meeting with interested parties, IDEM will propose for readoption the existing rule without changes.

Consideration of Factors Outlined in Indiana Code 13-14-8-4

Indiana Code 13-14-8-4 requires that in adopting rules and establishing standards, the board shall take into account the following:

- 1) All existing physical conditions and the character of the area affected.
- 2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
- 3) Zoning classifications.
- 4) The nature of the existing air quality or existing water quality, as appropriate.
- 5) Technical feasibility, including the quality conditions that could reasonably be achieved through coordinated control of all factors affecting the quality.
- 6) Economic reasonableness of measuring or reducing any particular type of pollution.
- 7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to:
 - (A) human, plant animal, or aquatic life;
or
 - (B) the reasonable enjoyment of life and property.

Consistency with Federal Requirements

The existing rules are consistent with federal guidance.

IDEM Contact

Additional information regarding this rulemaking action can be obtained by contacting Chrystal Wagner, Rules Development Section, Office of Air Quality, at (317) 234-1203, or call (800) 451-6027 (in Indiana), press 0 and ask for extension 4-1203.